IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7484 OF 2006

WRIT PETITION NO. 7485 OF 2006

WRIT PETITION NO. 7484 OF 2006

Bharamappa Mallappa Danole. .. Petitioner.

vs.

Ichalkaranji Municipal Council

& Ors. . .. Respondents.

Mr. Amit B. Borkar for petitioner.

WRIT PETITION NO. 7485 OF 2006

Bharamappa Mallappa Danole. .. Petitioner.

vs.

Ichalkaranji Municipal Council

& Ors. . .. Respondents.

Mr. Amit B. Borkar for petitioner.

CORAM : A.P. DESHPANDE, J.

DATE : 15th November, 2006.

P.C.

. The petitioner is the original defendant and

in para 3 of the written statement he categorically raised an objection to the maintainability of the suit in view of the bar of Section 107 of the Maharashtra Co-operative Societies Act. The petitioner has categorically pleaded that the society has gone in liquidation and hence the suit as filed is not maintainable. Despite this clear pleading being there in the written statement, the petitioner again moved an application seeking to amend the written statement with a view to take up an additional plea about non-maintainability of the suit without prior permission of the Registrar by placing reliance on Section 107. The trial Court being of the clear view that the petitioner has already pleaded the bar for institution of the suit, having regard to Section 107 and hence has rejected the amendment application.

2. I have perused the order. The impugned order does not call for any interference. I have also no doubt that the petitioner has already raised the ground of bar of Section 107 of Co-operative Act by pleading the same in para 3 of the written statement. Hence, the very filing of the amendment application was misconceived.

3. In the result, both the petitions fail and are summarily dismissed.

4. The learned counsel for the petitioner then points out that the other limb of the amendment application was in relation to the proceedings of Writ Petition No. 7179 of 1992, by contending that the petitioner in those proceedings has been exonerated by the High Court. The petitioner can place on record of the trial Court the judgement of the High Court on which he is placing reliance. For placing the judgment of the High Court, the petitioner does not require to amend his pleadings. Hence, even on this count no interference is called for. It is made clear that it is open for the petitioner to place certified copy of the judgment of the High Court on the record of the trial Court.

(A.P. Deshpande, J.)